

DRAFT MINUTES HEARING OFFICER NOVEMBER 6, 2018

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

STUDY SESSION 4:30 PM

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Principal Planner
Lee Jimenez, Senior Planner
Dalton Guerra, Planner I
Blake Schimke, Planning Technician
Brittainy Nelson, Administrative Assistant I

There were 0 interested citizens present at the study session.

- Staff and Hearing Officer discussed overview of the scheduled cases

REGULAR SESSION 5:00 PM

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Principal Planner
Lee Jimenez, Senior Planner
Dalton Guerra, Planner I
Blake Schimke, Planning Technician
Brittainy Nelson, Administrative Assistant I

There were 2 interested citizens present at the regular session.

Meeting convened at 5:00 PM and was called to order by Vanessa MacDonald. She stated that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) calendar days, by November 20, 2018 at 3:00 PM, to the Community Development Department.

The following was noted:

- **Agenda Item No. 1**

October 16, 2018 Hearing Officer Minutes

Vanessa MacDonald, Hearing Officer, stated that the October 16, 2018 Hearing Officer Minutes had been reviewed and were approved.

2. Request abatement of public nuisance items at the **LI PROPERTY** located at 1233 E. Concorda Drive. The applicant is the City of Tempe. **(CE182414)**

ABATEMENT REQUEST WITHDRAWN - PROPERTY IN COMPLIANCE

3. Request abatement of public nuisance items at the **QUINTANILLA PROPERTY** located at 1552 E. Divot Drive. The applicant is the City of Tempe. **(CE182483)**

Ashley Nichols, Code Inspector, gave the following overview of this case:

- Grass and Weeds in the gravel landscaping
- Owner was sent notices
- Citations have been given
- No response

Ms. MacDonald stated that she did have a chance to drive by the property, but it was late last week and asked if Ms. Nichols has she had a chance to drive by the property and see if the circumstance have changed.

Ms. Nichols said that she did drive by the property the day of the hearing and there have been some improvements on the side gravel, but the front yard still needs some attention.

Ms. MacDonald said that maybe the property owner will follow through in the next couple of weeks.

Ms. MacDonald agrees with the assessment of the property.

Ms. MacDonald asked if the property owner or anyone in the public that would like to speak on agenda item number 3.

No show of hands or cards.

Ms. MacDonald approved the 180-day abatement.

4. Request abatement of public nuisance items at the **SIVAK PROPERTY** located at 1969 E. Palomino Drive. The applicant is the City of Tempe. **(CE185249)**

Jack Scofield Jr., Code Inspector, gave the following overview of this case:

- Deteriorated Pool and rear yard
- Notices were mailed to the property and posted to the property
- Owner has passed away
- No next of kin on file

Ms. MacDonald stated that she did not look into the back yard, but she had a chance to look over the staff report, and she is aware that property owner is deceased, and the pool needs to be taken care of.

Ms. MacDonald stated that since the property owner is deceased then there is no one here to speak on the case.

Ms. MacDonald approved the 180-day abatement.

5. Request abatement of public nuisance items at the **MENGES PROPERTY** located at 1991 E. Harvard Drive. The applicant is the City of Tempe. **(CE185412)**

Jack Scofield Jr., Code Inspector, gave the following overview of this case:

- Deteriorate landscape in the front and rear yard
- Property owner is deceased
- No next of kin on file
- Notices were posted on the property but no response

Ms. MacDonald asked if Mr. Scofield had a chance to go by the property since last week.

Mr. Scofield stated that he went by there the morning of the hearing and it was still in violation.

Ms. MacDonald asked if the property owner or anyone in the public that would like to speak on agenda item number 5.

No show of hands or cards.

Ms. MacDonald agrees with the assessment of the property.

Ms. MacDonald approved the 180-day abatement.

6. Request abatement of public nuisance items at the **HAZELTON PROPERTY** located at 1223 S. Maple Avenue. The applicant is the City of Tempe. **(CE186070)**

Andres Lara-Reyes, Code Inspector, gave the following overview of this case:

- In violation since August 30th of this year
- High grass and weeds
- There were a couple of notices that were mailed to the owner
- No response
- In the last five years this property has been going through abatement
- This is vacant property

Ms. MacDonald stated that she did recognize this as being one of our frequent flyers and that this has been in abatement for several years.

Ms. MacDonald stated that her guess is that they are using the city as their maintenance service. It becomes deteriorated the City cleans it up and put it on the properties taxes.

Ms. MacDonald stated that she did have a chance to drive by the property.

Ms. MacDonald agrees with the assessment of the property.

Ms. MacDonald approved the 180-day abatement.

7. Request a Use Permit to allow live entertainment (indoors) for **SPOKES ON SOUTHERN**, located at 1470 East Southern Avenue. The applicant is Cody Jordan. **(PL180229)**

Blake Schimke, Planning Tech, gave the following overview of this case:

- Spokes on Southern is proposing to add live entertainment as an accessory to their already existing restaurant. It is located north of East Southern Avenue and east of South Dorsey Lane, in the PCC-2, Planned Commercial Center – General Zoning District
- The entertainment will be one day a week and be conducted indoors
- The applicants are proposing live music and occasional karaoke
- The site has historically been a restaurant, the last of which was Sneakers Sports Grill, which also had a use permit for live entertainment.
- Hours of operation are 11 a.m. to 2 a.m. daily, with the hours of live entertainment limited to time of open till 12 midnight Sunday-Thursday and 1:55 am Friday-Saturday
- To date, Staff has received one email of support and one call of inquiry. The Email listed some concerns on the hours of operation and the possibility of it being a disturbance to the neighborhood and surrounding businesses. The phone call was just a general inquiry on the location within the center.
- A security plan is required for this proposed use
- Based on the information provided by the applicant, the public input received, and the analysis provided in the staff report, staff supports this request and believes the application meets the required criteria and will conform to the conditions provided in the staff report.

Ms. MacDonald stated that she wanted to put on the record that Mr. Schimke did provide an email during study session.

Ms. MacDonald stated that she did read the email and that it was from a woman named Judy Rhodes and that she is in favor of the live music, but she did have a couple of concerns.

Ms. MacDonald also stated that she was not going to read the full email into record but that her concerns would be address in the conditions of approval.

Ms. MacDonald asked if the property owner or if anyone from Spokes on Southern was here.

Mr. Abrahamson stated that since the applicant was not there it is up to Ms. Macdonald if she wants to continue the case or just render a decision.

Ms. MacDonald stated that she normally continues to a later date because she likes to make sure that the applicant has read the staff report and agrees to the terms of condition. Since no one was present to ask the questions then she will need to continue it to the development review commission.

Mr. Abrahamson stated that is correct there has been a change in processing for use permits. That after the current hearing the use permits will go to the Development Review Commission on the second and third Tuesday of the month. The next available meeting will be Tuesday November 27,2018. And the staff will do everything they can to help the applicant get on that agenda. However, at this point there is not a guarantee.

Mr. Abrahamson stated that his colleague Mr. Jimenez suggested that this could be moved to the back of the agenda in the event the applicant may show up later in the evening.

Ms. MacDonald agreed to revisit the case later and then if no one shows it will be continued.

8. Request two use permits to allow a bar (series 6) and entertainment for **TEMPE SOUTHERN BAR**, located at 207 West Southern Avenue. The applicant is Andrew Smith of Norman Smith Investments, LLC. (**PL180273**)

Lee Jimenez, Senior Planner I, gave the following overview of this case:

- Tempe Southern Bar is proposing to operate a bar and grill with live entertainment on Lot 13 of the Danella Plaza commercial subdivision, located south of West Southern Avenue between South Kyrene Road and South Mill Avenue in the CSS, Commercial Shopping & Services District.
- The project will consist of a restaurant and bar with an indoor stage for entertainment acts such as bands, open-mic, DJs among other similar types of live entertainment. Dancing is also anticipated during the entertainment events.
- The hours of operation are proposed from 11 a.m. to 2 a.m., daily.
- To date, three (3) members of the neighborhood have contacted staff to indicate opposition to the use permit requests. Two (2) neighbors do not believe the plaza needs another bar, and one is concerned about the noise created by exiting traffic such as loud engine revving and street racing. Furthermore, two (2) of the opponents expressed concern about the hearing taking place on election day and felt it should be rescheduled to a more appropriate day.
- Based on the information provided by the applicant, and the analysis provided in the staff report, staff supports approval of the requested use permits and believes the requests meet the required approval criteria and will conform to the recommended conditions in the staff report.

Ms. MacDonald asked what is the distance to the nearest residential property.

Mr. Jimenez stated that 370 feet is from the corner of the Southwest corner of the lot the very northeast corner which is the residential lot. He also informed Ms. MacDonald that the two closet lots are along Kyrene and they do not have windows facing the east side. There is also railroad tracks dividing the plaza from the residential area.

Ms. MacDonald clarified that there is Kyrene road the railroad tracks and then the existing north south run of the buildings and then the property.

Mr. Jimenez stated that is correct. The building is 370 feet from the corner and then there are two lots that don't have windows facing the plaza.

Ms. MacDonald asked if the exit and entrance are on the opposite side.

Mr. Jimenez stated that is correct. And there is not a driveway access from Kyrene.

Ms. MacDonald stated that she wanted to make a note that Mr. Jimenez did provide her with a copy of two emails one from a Ms. Ephraim and a Mr. Blinick both are in opposition but taken note that the hearing fell on election day and they were not thrilled with the date. However, the dates are set well in advanced and there is not much that the Staff can do about it.

Ms. MacDonald invited the applicant up Mr. Andrew Smith to speak.

Ms. MacDonald asked if he had anything to add on his behalf and if he has read the staff report and agree to the conditions.

Mr. Smith stated he has read the report and he believes that he can comply with the conditions of approval. He also stated that he agrees with the way that Mr. Jimenez represented the case. Regarding the issues that he

heard about the drag racing is caused by the vacancies in the complex and once there are business in there it will settle the issue. And he does not believe that noise will be an issue to any residents.

Ms. MacDonald stated that she agrees with Mr. Smith that the best thing for a vacant plaza is to have businesses move into it which will give more eyes on the parking lot and surrounding streets. It tends to be a good thing to also help keep criminal activity away.

Mr. Smith stated that most of the whole lot is vacant and this a start to get it up and going again.

Ms. MacDonald stated that regarding the issue of not needing another bar there is not a separation requirement in City of Tempe.

Mr. Jimenez stated that is correct.

Ms. MacDonald asked if there was anyone in the public that would like to speak on agenda item number 8.

Ms. MacDonald invited Mr. Sean Down up to speak.

Mr. Down stated that he is part of the council members of the plaza and he is owner operator of Yucca tap room. The plaza is working with the City to add in speed bumps. He will also be working with Mr. Smith directly to help him with the security plan and the operation of the bar. He believes the more the merrier.

Ms. MacDonald stated that sometimes competitors want to keep people out.

Mr. Down stated that he agrees but they are far enough away, and they have different clientele. He has seen the applicant and the person that is partnering with the applicant in his bar and the partner has been known to provide entertainment in his bar.

Ms. MacDonald asked if there was anyone else in the public that would like to speak on agenda item number 8.

No show of hands or cards.

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic;* Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions;* Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans or General Plan;* Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values
4. *Compatibility with existing surrounding structures and uses;* Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public;* Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald approved Use Permits (ZUP180098) to allow a bar (series 6) and (ZUP180104) to allow entertainment (disc jockey, live band, karaoke, open-mic, and dancing) for **TEMPE SOUTHERN BAR (PL180273)**, located at 207 West Southern Avenue, subject to the assigned Conditions of Approval as follows:

1. The Use Permits are valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permits are valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained or the Use Permits are void.
4. If there are any complaints arising from the Use Permits that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
5. Any intensification or expansion of either use shall require a new Use Permit.
6. The entertainment use shall take place inside only. No entertainment will be allowed outside.
7. Live entertainment to cease at twelve o'clock midnight (12:00 a.m.), Sunday through Wednesday, and two o'clock in the morning (2:00 a.m.), Thursday through Saturday.
8. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact 480-858-6409 before December 6, 2018.
9. Bar hours of operation to end no later than two o'clock in the morning (2:00 a.m.) on a daily basis.
10. Obtain Development Plan Review approval for all proposed site, landscape, and building elevation modifications.
11. Provide a minimum of two (2) bicycle parking spaces per City of Tempe Public Works Department bicycle rack detail T-578 standard. Details can be resolved during the Development Plan Review.
12. All new rear exit doors shall require a security vision panel. Details to be approved through Building Safety Plan Review.
13. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.

9. Request a Use Permit Standard to reduce the required south side yard setback of a fourteen-foot nine-inch (14'-9") tall detached garage from nine feet (9'-0") to five feet (5'-0") for the **BYLER RESIDENCE**, located at 2743 South Rita Lane. The applicant is Craig Byler. (PL180283)

Dalton Guerra, Planner I, gave the following overview of this case:

- The Byler Residence is located on lot 33 of the Tempe Royal Palms Unit One Subdivision, east of South Rural Road and north of East Southern Avenue.
- The applicant is requesting a Use Permit Standard to reduce the required side yard setback for a detached garage from 9 feet to 5 feet. The garage is 14 feet, 9 inches tall.
- To date, staff has not received any public input.
- Based on the information provided by the applicant and the analysis provided in the staff report, staff supports this request and believes that the application meets the required criteria and will conform to the conditions provided in the staff report.

Ms. MacDonald invited up the applicant Mr. Craig Byler to speak.

Ms. MacDonald asked if he had anything to add to how Mr. Guerra presented the case.

Mr. Byler stated no Mr. Guerra presented it well.

Ms. MacDonald asked if he had a chance to read the staff report and if he agrees with the terms of conditions.

Mr. Byler stated that he did read agree with the conditions.

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic*; Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans or General Plan*; Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values
4. *Compatibility with existing surrounding structures and uses*; Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald Approved the Use Permit (ZUP180101) to reduce the required side yard setback from nine (9) feet to five (5) feet, **BYLER RESIDENCE (PL180283)**, located at 2743 South Rita Lane, subject to the assigned Conditions of Approval as follows:

1. The Use Permit Standard is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit Standard is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained or the Use Permit is void.
4. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
5. Any intensification or expansion of use shall require a new Use Permit.

10. Request a Use Permit to allow an amusement business (escape room) for **DYNAMIC ESCAPE ROOMS**, located at 1797 West University Drive, Suite 168. The applicant is Ignacio Zamora of Pandtech, LLC. **(PL180284)**

Dalton Guerra, Planner I, gave the following overview of this case:

- Dynamic Escape Rooms is proposing to operate at 1797 West University Drive, Suite 168, within the GID, General Industrial District.
- An escape room is an amusement business that challenges customers to solve puzzles and clues to open doors in different rooms.
- There will be 2-4 employees on hand at any given time and 0-24 customers depending on reservations. Hours of operation are M-Th (12pm-10pm), F (12pm-12am), Sat (10am-12am), and Sun (10am-10pm).
- To date staff has not received any public input.
- Based on the information provided by the applicant and the analysis provided in the staff report, staff supports this request and believes that the application meets the required criteria and will conform to the conditions provided in the staff report.

Ms. MacDonald stated that she has seen a number of these and she does not have any questions of staff at this point.

Ms. MacDonald invited the applicant Ignacio Zamora up to speak.

Ms. MacDonald asked if Mr. Zamora had a chance to read the staff report and if he agrees with the conditions.

Mr. Zamora stated he did read them and he agrees.

Ms. MacDonald asked if there was anyone in the public that would like to speak on agenda item number 10.

No show of hands or cards.

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic*; Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans or General Plan*; Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values
4. *Compatibility with existing surrounding structures and uses*; Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald approved the Use Permit (ZUP180284) to operate an escape room, **DYNAMIC ESCAPE ROOMS (PL180284)**, located at 1797 West University Drive, subject to the assigned Conditions of Approval as follows:

1. The Use Permit is valid only after a Building Permit has been obtained and the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained or the Use Permit is void.
4. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
5. Any intensification or expansion of use shall require a new Use Permit.

11. Request a Use Permit to allow vehicle sales in the General Industrial Zoning District (GID) for **LC CLASSICS**, located at 7965 South Priest Drive. The applicant is Charles Huellmantel. **(PL180287)**

Blake Schimke, Planning Tech, gave the following presentation:

- LC Classics is requesting a use permit to allow vehicle sales in the GID, General Industrial District. LC Classics is located East of South Priest Drive and South of West Elliot Road.
- LC Classics is a luxury classic car company which will store, and display restored classic cars and occasionally have a sale. The applicant and owner anticipate no more than 10 car sales in a year.
- The owner will be the only staff member of the company.
- The hours of operation will be daily 9 a.m. to 9 p.m. to match the surrounding auto dealerships. However, since sales are lower than that of a traditional dealership the applicant suggested it will be most likely by appointment
- To date, staff has not received any public input
- Based on the information provided by the applicant and the analysis provided in the staff report, staff supports this request and believes that the application meets the required criteria and will conform to the conditions provided in the staff report.

Ms. MacDonald invited the applicant Charles Huellmantel to speak

Mr. Huellmantel stated that they have seen the report and they agree with the conditions of approval. He would be happy to give a presentation if need be, but he feels that staff did a great job.

Ms. MacDonald asked how is a person that is going to sell only ten cars a year going to make any money.

Mr. Huellmantel stated his client is retired and restores classics cars. Occasionally he buys cars and auctions them for example at the Bird Jackson there was a restored Jeep he donated the proceeds to a charity. To do that he needs to have a state license to sell automobiles, to do that he has to have a sign on the wall, to do that he has to have a use permit. It is a lot of bureaucratic process what amounts to several unconnected acts of kindness and he also enjoys spending time with the cars.

Ms. MacDonald stated that the sale is ancillary to the store and display.

Ms. MacDonald asked if there was anyone in the public that would like to speak on agenda item number 11.

No show of hands or cards.

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic*; Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans or General Plan*; Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values
4. *Compatibility with existing surrounding structures and uses*; Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald approved the Use Permit (ZUP180100), **LC CLASSICS (PL180287)**, located at 7965 South Priest Drive, subject to the assigned Conditions of Approval as follows:

1. The Use Permits is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
2. All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained or the Use Permit is void.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
4. Any intensification or expansion of use shall require a new Use Permit.
5. Obtain all necessary clearances and permits for the occupancy or storage of gas powered motors on the building interior of the warehouse from the Building Safety Division.
6. Outdoor display of "For Sale" vehicle inventory is not allowed.

7. Request a Use Permit to allow live entertainment (indoors) for **SPOKES ON SOUTHERN**, located at 1470 East Southern Avenue. The applicant is Cody Jordan. (PL180229)

Ms. MacDonald returned to Agenda Item number 7

Ms. MacDonald asked if the applicant was present and invited up Mr. Cody Jordan to speak.

Ms. MacDonald stated this is going to be very brief because Mr. Cody case has already been presented.

Mr. Abrahamson stated he was unsure if we are going to represent the case.

Ms. MacDonald stated No. Mr. Schmidt went through the details of the case and did a fine job doing so and explained everything about the use.

Ms. MacDonald asked if Mr. Jordan has read the conditions and agrees with them.

Mr. Jordan stated he does agree and he has read it.

Ms. MacDonald stated that she is happy that he showed up.

Mr. Jordan apologized for being late.

Ms. MacDonald asked if anyone in the public would like to speak on agenda item number 7.

No show of hands or cards.

Ms. MacDonald noted that this request meets the criteria of the Zoning and Development Code, Section 6-309 D, Use Permit Criteria (in italics):

1. *Any significant increase in vehicular or pedestrian traffic*; Ms. MacDonald stated that this would not create an increase in vehicular or pedestrian traffic.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; Ms. MacDonald did not believe that the project would create a nuisance from any of the items listed.
3. *Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans or General Plan*; Ms. MacDonald did not believe that this project would deteriorate the neighborhood or downgrade property values
4. *Compatibility with existing surrounding structures and uses*; Ms. MacDonald did believe that the structure would be compatible with existing structures. She also noted that other similar projects have taken place in the neighborhood setting a precedent.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; Ms. MacDonald did believe that the property owners would have adequate control of behavior.

DECISION:

Ms. MacDonald Approved the Use Permit (ZUP180084) to allow live entertainment (Indoors), **SPOKES ON SOUTHERN (PL180229)**, located at 1470 East Southern Avenue, subject to the assigned Conditions of Approval as follows:

1. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
2. Any intensification or expansion of use shall require a new Use Permit.
3. The live entertainment use shall take place inside only. No live entertainment will be allowed outside
4. Live entertainment to cease at 12 midnight Sunday-Thursday and 1:55 am Friday-Saturday.
5. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact 480-858-6409 before December 6, 2018.


ANNOUNCEMENTS

- Vanessa MacDonald noted that the next Hearing Officer public hearing is scheduled for Tuesday, November 20, 2018 at 5:00 PM.
- Mr. Steve Abrahamson, Principal Planner, noted the following:
 - As of November 20, 2018, the focus of the Hearing officer will change. All the use permits will be heard by Development Review Commission, and variances will be heard by the Board of Adjustments. The Hearing Officer will only hear Abatement cases. There will no longer be a study sessions at 4:30pm. The Hearings will still take place in the Council Chambers.

With no further business, the public hearing adjourned at 5:40 PM.

Prepared by: Brittainy Nelson

Reviewed by:



Lee Jimenez, Senior Planner
For Vanessa MacDonald, Hearing Officer

LJ: bn